

ASSEMBLY BILL

No. 408

Introduced by Assembly Member Levine

February 16, 2007

An act to amend Sections 465 and 466 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as introduced, Levine. Public utility contracts: prevailing wages.

(1) Existing law requires that if a public utility contracts out the performance of custodial or janitorial services for the utility, the contract for those services specify that the contractor pay “prevailing wages,” as defined. Existing law requires the contractor to pay its employees the prevailing wage and to include a provision in the contract making the contractor’s failure to do so cause for termination of the contract. Existing law requires every contractor to whom a contract is awarded by a public utility and every subcontractor under that contractor to pay not less than the prevailing wage to those employees and requires the Division of Labor Standards Enforcement to enforce the foregoing requirement.

This bill would, in addition, include security services as services subject to the prevailing wage and contract security provisions applicable to contractors and subcontractors providing those services to a public utility.

Existing law makes any public utility that violates the Public Utilities Act, or that fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the Public Utilities Commission guilty of a crime. Because a violation of these provisions would be a

crime under existing law, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 465 of the Public Utilities Code is
2 amended to read:

3 465. (a) Except as provided in subdivision (c), whenever any
4 labor of a *security*, custodial, or janitorial nature is not performed
5 by the employees of a public utility, ~~such~~ *the* labor shall be let out
6 under contract to the lowest responsible bidder with the ~~provision~~
7 *requirement* that prevailing wages be a condition of ~~any such~~ *the*
8 contract. For the purposes of this section, “prevailing wages” shall
9 be deemed to include employer payments for health and welfare,
10 pension, holidays, sick leave, vacation, apprenticeship or other
11 training programs.

12 (b) A public utility shall implement the provisions of subdivision
13 (a) by requiring the entity with which it contracts to pay its *security*,
14 custodial, or janitorial employees the prevailing wage. The public
15 utility awarding the contract shall cause to be inserted in the
16 contract a stipulation that the failure to pay prevailing wages shall
17 be cause for the termination of the contract.

18 (c) ~~Nothing in this~~ *This section shall does not* prevent a public
19 utility from employing a *security*, custodial, or janitorial service
20 for a period of 90 days or less without a contract meeting the
21 requirements of subdivision (a) ~~of this section~~.

22 (d) The Director of the Department of Industrial Relations shall
23 determine the prevailing wage for *security*, custodial, or janitorial
24 employees in accordance with the standards set forth in Section
25 1773 of the Labor Code.

26 SEC. 2. Section 466 of the Public Utilities Code is amended
27 to read:

1 466. Pursuant to Section 465, the contractor to whom the
2 contract is awarded and any subcontractor ~~under him~~ *of the*
3 *contractor* shall pay not less than the specified prevailing wage to
4 all ~~workmen~~ *workers* performing *security*, custodial, or janitorial
5 labor in the ~~execution~~ *execution* of the contract.

6 Each contractor and subcontractor shall keep an accurate payroll
7 record, showing the name, address, social security number, work
8 classification, straight time and overtime hours worked each day
9 and week, and the actual per diem wages paid to each *security*,
10 janitorial, and custodial worker employed by ~~him~~ *the contractor*
11 *and subcontractor* in connection with the contract. The contractor's
12 and subcontractor's payroll records shall be available for inspection
13 at all reasonable hours, and a copy shall be made available upon
14 request to the employee, or his *or her* authorized representative,
15 and the Division of Labor Standards Enforcement. After a
16 complaint has been filed with the Division of Labor Standards
17 Enforcement alleging that the contractor or the subcontractor has
18 paid less than the prevailing wage, the contractor or subcontractor
19 shall upon receipt of a written notice from the Division of Labor
20 Standards Enforcement within 10 days file with the public utility
21 and the Division of Labor Standards Enforcement a certified copy
22 of the payroll records.

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.